



United States Department of the Interior

NATIONAL PARK SERVICE

1849 C Street, N.W.
Washington, DC 20240

JUN 26 2012

Re: **Charles C. Donges Residence, 2619 West State Street, Milwaukee, Wisconsin**
Project Number: 18803

Dear

I have concluded my review of your appeal of the decision of Technical Preservation Services (TPS), National Park Service, denying certification of the rehabilitation of the property cited above. The appeal was initiated and conducted in accordance with Department of the Interior regulations (36 CFR Part 67) governing certifications for Federal income tax incentives for historic preservation as specified in the Internal Revenue Code. I thank you for speaking with me via a conference call on March 27, 2012, and for providing a detailed account of the project.

After careful review of the complete record for this project, including the materials you submitted following our conference call, I have determined that the rehabilitation of the Charles C. Donges Residence is not consistent with the putative historic character of the property, and that the project does not meet Standards 2, 3, and 6 of the Secretary of the Interior's Standards for Rehabilitation (the Standards). Therefore, the denial issued on November 2, 2011, by TPS is hereby affirmed. However, I have further determined that the rehabilitation could be certified if remedial work were undertaken that would bring the project into conformance with the Standards.

In response to the submitted "Part 1 – Evaluation of Significance," for the property, the National Park Service issued a Preliminary Determination of Individual Listing on July 11, 2011, stating that the property appeared to meet the National Register Criteria for Evaluation and would "likely be listed in the National Register of Historic Places if nominated by the State Historic Preservation Officer."

TPS subsequently found that the completed rehabilitation of the c. 1899 Charles C. Donges Residence failed to meet the Standards owing to changes on both the interior and the exterior. Regarding the former, TPS cited the demolition of part of the main stair and the installation of a spiral stair elsewhere in the building. Regarding the latter, TPS faulted siding replacement, changes to two windows on the front, and modifications to the front porch.

In our conversation, you referred me to photographs and a video confirming your statement that the run of the main stair from the second floor to the third had been removed by the previous owner; you merely secured the former stair landing at the third floor. As for the spiral stair inserted in place of the lost run of the main stair, although it is slightly incongruous in this late nineteenth-century house, it stands in a secondary space at the back of the house, and is acceptable there. As a result, these two treatments played no part in my decision.

With regard to the exterior work, I accept your statement that the siding was deteriorated and required

replacement, and I note that the new siding visually matches the elements removed. Moreover, the additional documentation you had supplied for review during our conversation included several photographs dating to the 1940s or early 1950s that show two rectangular window openings separated by a mullion in the front gable. The photographs are somewhat indistinct, but suffice to prove that the Gothic window removed in this rehabilitation was in fact a relatively recent substitution for these earlier windows. I note that, for its part, TPS objected not to the replacement of the Gothic window *per se*—given that it was clearly not original to this Queen Anne Style house—but to the lack of documentation concerning the new windows installed in its place. Consequently, these two treatments played no part in my decision.

While the four treatments described above have not impaired the historic character of the Charles C. Donges Residence, the same cannot be said of the major changes made to the front porch in this rehabilitation. Although the porch had undergone numerous modifications over the years, the same photographs cited above show that its principal features had survived largely intact, and I agree with TPS that the project has replaced an authentic historic feature with a new one that purports to be historic but is not. With regard to the replacement of historic materials, although the photographs showed that the historic porch posts and railings were deteriorated, there is no evidence that their wholesale replacement was warranted.

As a result, given that the porch is a primary, character-defining feature on the front of the house and the extensiveness of the changes to the porch, I have determined that those changes are so significant as to cause the overall impact of the rehabilitation to contravene Standards 2, 3, and 6. Standard 2 states: *"The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided."* Standard 3 states: *"Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken."* Standard 6 states: *"Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence."*

In this case, I find the stated justification for configuring the porch railings in the particular manner done here, so that the historic porch could satisfy current building codes, unconvincing. It is the design of the new railings—not the modifications required to meet the building code—that does not comply with Standards 2 and 6, cited above. Indeed, it would have been possible to upgrade the historic railings to meet the specific building code requirements you cited (top rail height and pass-through size) without so severely compromising their historic character. I note that it has long been the experience of the National Park Service in administering the historic preservation tax incentives program that it is possible to meet both building code requirements and the Secretary of the Interior's Standards for Rehabilitation.

I also agree with TPS' determination that repeating the new railing design on the second story of the porch—which admittedly had variously been simply the porch roof, later with a small deck with a wrought iron railing set back from the street facade, and most recently a full deck with a wood railing—also causes the project to conflict with Standard 3, cited above. Additionally, I have determined that the replacement porch posts do not match the ones removed, and that the new balusters on the front porch stairs are not based on documentary, physical, or pictorial evidence (nor are they compatible with a Queen Anne Style house), and thus neither the posts nor the balusters comply with Standard 6, cited above.

This outcome is regrettable, given that the Part 2—Description of Rehabilitation application submitted to TPS proposed the accurate replacement of missing elements from the porch—based on the photographic

documentation and remaining physical evidence—that would have met these Standards. It is unfortunate that the modifications to the porch—which differ substantially from the treatments proposed in the Part 2 application—were not submitted for certification as a Part 2 amendment. The Part 3—Request for Certification of Completed Work application you submitted included a statement that, “. . . in my opinion the completed rehabilitation meets the Secretary’s ‘Standards for Rehabilitation’ and is consistent with the work described in Part 2 of the Historic Preservation Certification Application.” With regard to the changes to the front porch noted above, I find that this is not the case.

While the project as completed cannot be approved, I have further determined that the project can be brought into conformance with the Standards, and thereby achieve the requested certification, if corrective measures are undertaken. Specifically, the front porch must be modified to correct the deficiencies identified above. These measures would allow the project to be certified as meeting the legally-established minimum requirements for certification. If you choose to proceed with corrective measures to the front porch, before proceeding with construction please submit a Part 2 amendment to this office, attention Mr. Michael Auer, with a copy to the Wisconsin SHPO, describing in detail the remedial work you propose to undertake. Note, however, that this project will not become a “certified rehabilitation” eligible for the tax incentives until it completed and is so designated by the NPS.

As Department of the Interior regulations state, my decision is the final administrative decision with respect to the November 2, 2011, denial that TPS issued regarding rehabilitation certification. A copy of this decision will be provided to the Internal Revenue Service. Questions concerning specific tax consequences of this decision or interpretations of the Internal Revenue Code should be addressed to the appropriate office of the Internal Revenue Service.

Sincerely,

A handwritten signature in dark ink, appearing to read "John A. Burns", with a long, sweeping horizontal line extending to the right.

John A. Burns, FAIA
Chief Appeals Officer
Cultural Resources

cc: SHPO-WI
IRS